

ORIGINAL



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2011 OCT 12 P 4: 23

AZ CORP COMMISSION  
DOCKET CONTROL

**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

GARY PIERCE – Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

IN THE MATTER OF:

MORGAN FINANCIAL, L.L.C., an Arizona  
limited liability company,

MORGAN FINANCIAL LENDERS, L.L.C.,  
an Arizona limited liability company,

and

JIMMY HARTGRAVES, JR. and LAURIE  
HARTGRAVES, husband and wife,

RESPONDENTS

DOCKET NO. S-20719A-09-0583

**RESPONDENTS' POST-HEARING  
MEMORANDUM PROVIDING  
INFORMATION REQUESTED BY  
NINTH PROCEDURAL ORDER**

(Assigned to the Honorable  
MARC E. STERN)

Arizona Corporation Commission  
**DOCKETED**

OCT 12 2011

DOCKETED BY

On September 28, 2011, Administrative Law Judge Stern (the "ALJ") issued a Ninth  
Procedural Order in this case, instructing Respondents to file a post-hearing memorandum  
containing additional information. In order to succinctly set forth the information requested

1 by the ALJ, each category of information requested is set forth verbatim in bold type in a  
2 separately numbered paragraph below, followed by the responsive information in italics.

3 **1. The name, date and amount of each investor's funds invested with**  
4 **Morgan Financial Lenders, LLC when the subordinated notes were exchanged for**  
5 **membership interests:**  
6

7 1. *A. Name – See Schedule A, Column B.<sup>1</sup>*

8 *B. Date – June 1, 2010.*

9 *C. Amount – See Schedule A, Column E.*  
10

11 **2. The amount of each investor's funds (principal) remaining with Respondents:**

12 2. *Assuming this means the net principal amount remaining unpaid, see*  
13 *Schedule A, Column L. No investor's funds remain with Respondents; all were invested in*  
14 *loans and properties.*  
15

16 **3. The dates and amount of interest paid to investors:**

17 3. *Assuming this means total amounts (interest and distributions) paid to*  
18 *members, see Schedule A, Column F (total return paid to date; interest payment dates*  
19 *varied), Columns H and I (distributions paid), and Column J (total paid to date).*  
20

21 **4. The number of properties sold from the portfolio, selling price and profit, if**  
22 **any.**

23 4. *Schedule B provides information indicating the five properties sold since*  
24 *Amendment No. 6 to Master Repurchase Agreement ("Amendment 6") was signed effective*  
25 *January 31, 2011. Schedule C provides information about all properties sold prior to*  
26 *Amendment 6. Because all sales proceeds were paid to Merrill Lynch prior to*  
27

28 <sup>1</sup> Note that certain lenders have transferred interests to other family members.

1 Amendment 6, profit, if any, was not calculated and is irrelevant. With respect to properties  
2 sold after Amendment 6, see Schedule B.

3 Under Amendment 6, Morgan Financial is paid 3% of the net profit after each sale,  
4 which is then passed through to the members. Net profit is determined by a complex  
5 formula. To date there have been two disbursements to the members. On April 29, 2011  
6 (see Schedule A, Column H) checks were distributed for the sale of the properties identified  
7 on Schedule B by Loan IDs 2740991963, 2630000506 and 1810000642. On June 28, 2011  
8 (see Schedule A, Column I), a check was distributed for the sale of the property identified on  
9 Schedule B by Loan ID 9269818018.

12 A lot identified on Schedule B by Loan ID 1107732265 has been sold, and proceeds  
13 from that sale will be distributed when the property identified on Schedule B by Loan  
14 ID 6900019071 closes escrow, which is scheduled for October 20, 2011.

16 **5. The number of properties remaining to be sold and their projected selling**  
17 **prices:**

18 See Schedule C for properties remaining to be sold, and the most recent  
19 appraisal prices (projected sales prices).

21 Schedule D, Part 1 describes current sales activities, including possible  
22 projected selling prices.

23 **6. Disclose the prospective date of termination of the Master Repurchase**  
24 **Agreement between Merrill Lynch Capital, Inc., Morgan AZ Financial, L.L.C. and Morgan**  
25 **Financial, L.L.C. and any possible consequence to the members of Morgan Financial Lender,**  
26 **LLC:**

1           6.       *Amendment 6 expires on October 31, 2011. Morgan Financial is currently*  
2 *negotiating the terms of Amendment 7, and is seeking to renew on the same terms as*  
3 *Amendment 6, but Amendment 7 has not yet been concluded. By way of reference,*  
4 *Amendment 6 was not executed until mid-2011. If Amendment 7 is executed, Morgan*  
5 *Financial anticipates that the new termination date would be October 31, 2012.*  
6 *Information with respect to those negotiations is set forth in Schedule D, Part 2.*

7  
8           *Termination of the Master Repurchase Agreement would profoundly and adversely*  
9 *affect the investors in Morgan Financial Lenders as follows:*

10  
11           *Morgan AZ Financial, LLC (Borrower).* *Termination of the Master Repurchase*  
12 *Agreement would cause Morgan AZ Financial, LLC, as borrower, to be financially*  
13 *insolvent.*

14  
15           *Morgan Financial, LLC (Guarantor).* *As Guarantor of the loan from Merrill Lynch,*  
16 *the termination of the Master Repurchase Agreement would cause Morgan Financial, LLC*  
17 *to be financially insolvent.*

18           *Morgan Financial Lenders, LLC (Lender).* *If the Master Repurchase Agreement is*  
19 *terminated, then the loan to Morgan Financial, LLC would become uncollectible.*  
20 *Termination of the Master Repurchase Agreement would practically eliminate all possibility*  
21 *of future payments to the members of Morgan Financial Lenders, LLC.*

22  
23           *Even if the Master Repurchase Agreement is extended, its terms permit Merrill Lynch*  
24 *to terminate that agreement if a court, administrative tribunal or other similar body enters a*  
25 *judgment of \$100,000 or more against Morgan Financial that is not satisfied. Merrill*  
26 *Lynch, at its sole discretion, has the right to seize all assets without further payment. That*  
27 *action would leave the members of Morgan Financial Lenders, LLC with nothing.*  
28

**7. Documentation which substantiates the payments which have been paid to date since the exchange of subordinated notes for the membership interests in Morgan Financial Lenders, LLC.**

7. See Schedule A, Columns H and I, which sets forth amounts and dates of payments. Respondents believe that obtaining additional substantiation is unnecessary, and would require unreasonable effort and expense, particularly since no one disputes that such payments were made.

### A Decision is Needed in This Matter

The lack of a decision in this matter is harmful to the members of Morgan Financial Lenders, LLC, who clearly supported the current structure by exchanging their subordinated notes for membership interests in Morgan Financial Lenders, LLC. As long as this matter is unresolved, it is virtually impossible for Jim Hartgraves or any other Morgan Financial affiliate to move forward with any new projects, or restructure or refinance any existing ventures that could benefit lenders and/or members. Disclosure of this ACC proceeding with a potential \$6,000,000 liability is an unacceptable risk to any potential source of capital. Mr. Hartgraves and Morgan Financial affiliates have been in this holding pattern for two years.

Respondents have fully responded providing information requested by the ALJ.

Respondents are delivering complete copies to the ALJ and to the Division. For the benefit of all lenders and members, this proceeding should be resolved quickly.

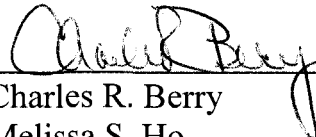
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1 Dated October 12, 2011.

2 POLSINELLI SHUGHART PC

3  
4 By:   
5 Charles R. Berry  
6 Melissa S. Ho  
7 CityScape  
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10 **ORIGINAL** and 13 copies filed this  
11 12<sup>th</sup> day of October, 2011 with the  
12 Arizona Corporation Commission  
13 Docket Control Center and COPIES  
14 hand-delivered this same date to:

15 Administrative Law Judge Marc E. Stern  
16 Arizona Corporation Commission  
17 Securities Division  
18 1200 W. Washington Street  
19 Phoenix, AZ 85007

20 Phong (Paul) Huynh  
21 Staff Attorney  
22 Arizona Corporation Commission  
23 Securities Division  
24 1200 W. Washington Street  
25 Phoenix, AZ 85007

29% \$ 6148

# Schedule B

9/29/2011

Loan ID	Borrower Name	Note Amt	Sale Price	Merrill Appraisal 2010 *
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## Sold Homes

Homes sold prior to Amendment 6 are listed on Schedule C.

### ALL homes sold after Amendment 6

2740991963	San Clemente	N/A	\$600,000	N/A
2630000506	McDowel Mountian	N/A	\$1,060,000	N/A
1810000642	Lost Valley	N/A	\$500,000	N/A
9269818018	Eagles Nest Lot 46	N/A	\$900,000	N/A
1107732265	High Point Lot	N/A	\$125,000	N/A

## Remaining Homes for sale

### Non Flag Homes

6780003986	Litchfield	\$520,150	N/A	\$245,000
1163700935	Lot 106 Eagles Nest	\$1,840,000	N/A	\$1,335,000
7790271070	Young, AZ	\$1,000,000	N/A	\$325,000
6900019071	Parks, Az	\$559,300	N/A	\$360,000

### Flagstaff Ranch Homes - Completed

9117814286	1	\$1,140,000	N/A	\$515,000
4754609632	9	\$1,050,000	N/A	\$500,000
1914179373	10	\$712,500	N/A	\$420,000
4689863946	21	\$1,117,150	N/A	\$665,000
1018475960	22	\$1,050,000	N/A	\$910,000
1162286675	152	\$1,050,000	N/A	\$835,000
4092777627	182	\$1,008,000	N/A	\$454,000

### Flagstaff Ranch Homes - Incomplete

6921183404	108	\$1,022,500	N/A	\$491,000
7077865607	148	\$1,050,000	N/A	\$454,000
2282014933	173	\$1,022,500	N/A	\$454,000
5900414663	176	\$1,125,000	N/A	\$481,000
7133447573	177	\$1,140,000	N/A	\$450,000
4954240620	191	\$1,050,000	N/A	\$454,000
5125429775	208	\$1,025,000	N/A	\$492,000

### Flagstaff Ranch Lots

6642650030	34 L	\$985,000	N/A	\$57,000
8322759763	35 L	\$1,111,000	N/A	\$57,000
9944814328	37 L	\$1,025,000	N/A	\$57,000
1093584934	39 L	\$1,265,225	N/A	\$57,000
3156876230	41 L	\$1,025,000	N/A	\$57,000
4508708862	42 L	\$1,022,500	N/A	\$57,000
6412272750	44 L	\$1,064,000	N/A	\$57,000
7775408973	45 L	\$1,121,050	N/A	\$57,000
4321114230	175 L	\$1,121,050	N/A	\$60,000

\* Merrill is currently in the process of having the properties apprasied.



# Schedule C

9/29/2011

Homes Sold  
Prior to Amendment 6

Loan ID	Note Amt	Sale Price
5879086523	\$ 3,100,000	Refi
7958785852	\$ 753,000	Refi
3748963419	\$ 790,000	Refi
9167353980	\$ 1,700,000	Refi
4859762105	\$ 1,650,000	Refi
9845752221	\$ 1,500,000	Refi
2227289924	\$ 1,650,000	\$ 1,100,000.00
7735310086	\$ 790,000	\$ 370,000.00
4062734133	\$ 1,225,000	\$ 780,000.00
7716194443	\$ 525,000	\$ 240,000.00
3391028414	\$ 930,000	\$ 480,000.00
2027399036	\$ 500,000	\$ 185,000.00
7904981860	\$ 2,750,000	\$ 1,700,000.00
1107732265	\$ 1,725,000	\$ 925,000.00
7431422740	\$ 525,000	\$ 240,000.00
2827194694	\$ 580,000	\$ 260,000.00
2892580381	\$ 405,000	\$ 310,000.00
9891752894	\$ 1,575,000	\$ 1,042,500.00
1713346830	\$ 500,000	\$ 210,000.00
5483664154	\$ 350,000	\$ 150,000.00
4832406036	\$ 1,650,000	\$ 820,000.00
3314025879	\$ 310,000	\$ 192,500.00
6254577076	\$ 1,225,000	\$ 385,000.00
1810000694	\$ 448,000	\$ 315,000.00
3231117013	\$ 2,600,000	\$ 950,000.00
6351214159	\$ 460,000.00	\$ 221,309.89
9820892560	\$ 3,000,000.00	\$ 1,200,000.00
7665339838	\$ 1,415,000.00	\$ 720,000.00
6460946476	\$ 460,000.00	\$ 223,000.00
7550386461	\$ 940,000.00	\$ 417,000.00

## SCHEDULE D

### Part 1

*Morgan Financial is in active contract negotiations on* [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

*If a total of 10 properties are sold by October 31, 2011, Amendment 6 provides for a retroactive 2% bonus on all properties, which would be distributed to the members. Merrill Lynch must approve all sales.*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]